



SENATE JOINT RESOLUTION No. 16

DIGEST OF INTRODUCED RESOLUTION

Citations Affected: Article 7 of the Constitution of the State of Indiana.

Synopsis: Foreign law. Prohibits the enforcement of a law established and used outside the jurisdiction of the United States if the enforcement would violate a right granted by the Constitution of the State of Indiana or the Constitution of the United States. Provides that a provision in a contract or agreement calling for the application of foreign law is not enforceable and is void if the provision cannot be modified, unless the contract explicitly states that it will be enforced in accordance with foreign law. Prohibits a court from granting certain motions to transfer a case to another jurisdiction if the transfer is likely to affect the constitutional rights of the nonmoving party. This proposed amendment has not been previously agreed to by a general assembly.

Effective: This proposed amendment must be agreed to by two consecutive general assemblies and ratified by a majority of the state's voters voting on the question to be effective.

Waterman

January 18, 2011, read first time and referred to Committee on Judiciary.

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PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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SENATE JOINT RESOLUTION 16

A JOINT RESOLUTION proposing an amendment to Article 7 of the Constitution of the State of Indiana concerning courts and court officers.

Be it resolved by the General Assembly of the State of Indiana:

- 1 SECTION 1. The following amendment to the Constitution of the
- 2 State of Indiana is proposed and agreed to by this, the One Hundred
- 3 Seventeenth General Assembly of the State of Indiana, and is referred
- 4 to the next General Assembly for reconsideration and agreement.
- 5 SECTION 2. ARTICLE 7 OF THE CONSTITUTION OF THE
- 6 STATE OF INDIANA IS AMENDED BY ADDING A **NEW**
- 7 SECTION TO READ AS FOLLOWS: **Section 22. (a) A court may**
- 8 **not enforce a law, rule, or legal code or system established and**
- 9 **either used or applied in a jurisdiction outside the states of the**
- 10 **United States, the District of Columbia, or the territories of the**
- 11 **United States if doing so would violate a right guaranteed by this**
- 12 **constitution or the Constitution of the United States.**
- 13 **(b) Unless a contract or agreement specifically provides that it**



is to be interpreted in accordance with a law established and either used or applied in a jurisdiction outside the states of the United States, the District of Columbia, or the territories of the United States, if:

(1) any contractual provision or agreement provides for the choice of a foreign law to govern its interpretation or the resolution of any dispute between the parties; and

(2) the enforcement or interpretation of the contractual provision or agreement would result in a violation of a right guaranteed by this constitution or the Constitution of the United States;

a court construing the agreement or contractual provision shall amend it to the extent necessary to preserve the constitutional rights of the parties.

(c) Unless a contract or agreement specifically provides that it is to be interpreted in accordance with a law established and either used or applied in a jurisdiction outside the states of the United States, the District of Columbia, or the territories of the United States, any contractual provision or agreement incapable of being amended in order to preserve the constitutional rights of the parties in accordance with subsection (b) is void.

(d) Unless a contract or agreement specifically provides for venue or a forum outside the states of the United States, the District of Columbia, or the territories of the United States, if:

(1) a contractual provision or agreement provides for the choice of venue or forum outside the states of the United States, the District of Columbia, or the territories of the United States; and

(2) the enforcement or interpretation of the contract or agreement applying that choice of venue or forum provision would result in a violation of any right guaranteed by this constitution or the Constitution of the United States;

that contractual provision or agreement shall be interpreted or construed to preserve the constitutional rights of the person against whom enforcement is sought.

(e) A court may not grant a motion of forum non conveniens or a related motion in a case in which a natural person subject to personal jurisdiction in Indiana seeks to maintain an action in Indiana, if the court finds that granting the motion violates or would likely lead to the violation of the constitutional rights of the nonmovant in the foreign forum with respect to the matter in dispute.

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